

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

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4 RICHARD EVALOBO and PRISCILLA  
5 SANTOS CORTEZ,

6 Plaintiffs,

7 v.

8 ALDRIDGE PITE, LLP; REBECCA P.  
9 KERN, ESQUIRE; and U.S. BANK, N.A.,

10 Defendants.

Case No. 2:16-cv-00539-APG-VCF

**ORDER DENYING PLAINTIFFS'  
MOTION FOR LEAVE TO AMEND**

(ECF No. 20)

11 I previously entered an order dismissing with prejudice most of the claims asserted by  
12 plaintiffs Richard Evalobo and Priscilla Santos Cortez. ECF No. 19. Dismissal with prejudice  
13 means those claims cannot be reasserted in this lawsuit. I granted the leave to amend the  
14 complaint to cure the defects in their claims of common law fraud, FDCPA violations, and  
15 breach of contract if sufficient facts exist. *Id.* The plaintiffs have now filed a motion seeking  
16 leave to file their amended complaint. ECF No. 20. I deny the motion.

17 The plaintiffs appear to have ignored my earlier Order. The proposed First Amended  
18 Complaint (ECF No. 20-1) simply adds another defendant, more bare restatements of the fraud  
19 claim, and authority that fraud is bad. But the underlying conduct (which I previously ruled does  
20 not state a claim) remains the same. In my order, I pointed out that to amend their complaint the  
21 plaintiffs had to, at a minimum, "plausibly and with particularity specify in what way the [Deed  
22 Of Trust] offered by the defendants has been altered from the [Deed Of Trust] Cortez admitted to  
23 entering into in prior litigation." ECF No. 19 at 7. The plaintiffs also were directed to clarify if  
24 they were making an FDCPA claim about activities outside of the foreclosure process, and if so  
25 to support it with sufficient facts. *Id.* at 9. The proposed First Amended Complaint does neither  
26 of these things.

1 I will give the plaintiffs one final chance to amend their complaint and address the issues  
2 detailed in my prior Order (ECF No. 19). They must omit from that amended complaint the  
3 claims I have dismissed with prejudice. Those claims are preserved for appeal. If the plaintiffs  
4 again fail to file a proper amended complaint, the complaint will be dismissed without leave to  
5 amend and this case will be closed.

6 IT IS THEREFORE ORDERED that the plaintiffs' motion for leave to amend (**ECF No.**  
7 **20) is DENIED.** The plaintiffs are granted a final opportunity to amend the complaint to cure  
8 the defects in their common law fraud, breach of contract, and FDCPA claims if sufficient facts  
9 exist. The plaintiffs must file the amended complaint within 14 days of entry of this order.

10 DATED this 13<sup>th</sup> day of January, 2017.

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13 ANDREW P. GORDON  
14 UNITED STATES DISTRICT JUDGE  
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